HIGH COURT OF JUDICATURE AT BILASPUR : CHHATTISGARH

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO. 69 OF 2006.

PETITIONER — Akhilesh Upadhyay, aged about 17 years, Minor through father Shri R.P. Upadhyay, Occupation Service, Posted as Assistant Manager, Orissa Concrete and allied Industries Limited (Vishakhapatnam) R/o Karbalapara, Raipur (Chhattisgarh)

Versus

RESPONDENTS

1. Pandit Ravi Shankar Shukla University, Raipur through Registrar, Pandit Ravi Shankar Shukla University, Raipur, District Raipur (Chhattisgarh)
2. University Institute of Technology, through its Director Pandit Ravi Shankar Shukla University, Raipur, District Raipur (Chhattisgarh)

Present : Shri. Sanjay K. Agrawal , learned counsel for the petitioner.
Shri Pramod Verma, learned Sr. Advocate with Shri Sumit Verma, learned counsel for the respondent/University.

ORAL ORDER

(Passed on 23rd February 2006.)

The petitioner is a student in B.E. First year in the Institute of Technology in Pt. Ravi Shankar Shukla University, Raipur. He has earned only 49.59% of attendance. Therefore, he was not permitted to appear in the B.E. First year examination held in the months of December 2005 and January 2006. He has filed this writ petition seeking intervention of the Court. The writ petition is opposed by the University by filing return. Along with the return, relevant Ordinance is produced as Annexure-R/5 at

pages 14 and 15 of the material papers. The relevant provision contained in the Ordinance for regulating attendance of students reads as follows:

> " Attendance in a class is compulsory and will be monitored. Candidate securing less than 85% of attendance in each theory and practical of any semester shall be detained from appearing in the ensuing examination and be required to take readmission in that semester so as to complete the academic requirements.
>
> However, a condonation of 10% in respect of attendance may be granted by Principal of the college and further 5% by University of genuine reasons."

It is needless to state that the Ordinance issued by the University has statutory force and the University Authorities, teachers and the students are governed by the same. The above extracted provision of the Ordinance would clearly show that under no circumstance, a candidate who has earned less than 70% of the attendance could be permitted to appear for the examinations. The normal rule is that a candidate should have 85% of attendance in each theory and practical of any semesters in order to enable to appear for the examinations, but, a discretion any power is conferred on the Principal of the college to condone the attendance to an extent of 10% and on the University to condone the attendance for further extent of 5%. The petitioner as well as the University are bound by the above regulations, neither the University can permit the petitioner to appear for the examination nor is it the right of the petitioner to insist that notwithstanding his attendance of 49.59%, he should be allowed to appear for the examination. Mandamus shall not go to an authority like the

University to do something in breach of the mandatory rules. The Writ petition is, therefore, dismissed. No costs.

Sd/-
S.R. Nayak
Chief Justice